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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,277	10/31/2000	Harrison G. Purvis	24104A	1667

27975 7590 07/11/2005

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EXAMINER

MILLER, WILLIAM L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/703,277	Applicant(s) PURVIS ET AL.	
	Examiner William L. Miller	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-22, 26 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 is/are allowed.
- 6) ☒ Claim(s) 12, 13, 15-22, 26, and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

5.00

DETAILED ACTION

Reissue Applications

1. The reissue oath/declaration is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

i) The declaration fails to contain a proper statement required under 37 CFR 1.175(a)(1) as to applicant's belief that the original patent is wholly or partly inoperative or invalid. Specifically, the error has not been recited properly as it is too broad and too generic. The statement must include specifics about what language in the claims constitutes the error. Since claims 12, 13, 15-22, 26, and 28 broader in scope than the patent claims, the language of the patent claims which is unneeded and caused the error must be recited. See 37 CFR 1.175(a)(1) and see MPEP § 1414.

ii) Since the instant reissue application is a broadening reissue, the declaration must be signed by all of the inventors. See MPEP § 1410.01.

iii) The declaration fails to provide a mailing address for Lonnie Arnold as required per 35 U.S.C. 115 and 37 CFR 1.63(a)(3).

2. Claims 12, 13, 15-22, 26, and 28 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

3. This application is objected to under 37 CFR 1.172(a) as the assignee has not established its ownership interest in the patent for which reissue is being requested. An assignee must

establish its ownership interest in order to support the consent to a reissue application required by 37 CFR 1.172(a). The assignee's ownership interest is established by:

(a) filing in the reissue application evidence of a chain of title from the original owner to the assignee, or

(b) specifying in the record of the reissue application where such evidence is recorded in the Office (e.g., reel and frame number, etc.).

The submission with respect to (a) and (b) to establish ownership must be signed by a party authorized to act on behalf of the assignee. See MPEP § 1410.01.

An appropriate paper satisfying the requirements of 37 CFR 3.73 must be submitted in reply to this Office action.

4. This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 1410.01.

A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

Conclusion

5. Claims 1-11 are allowed, and claims 12, 13, 15-22, 26, and 28 would be allowable upon overcoming the 35 U.S.C. 251 rejection set forth above.

6. Regarding inventorship, it is noted petition was filed 09-14-2001 under 37 CFR 1.47 for joint inventor Tony Matthews refusing to join in the application. However, the applicant then filed, prior to consideration of the petition, a declaration on 10-09-2001 which included Tony Matthews signature thus eliminating the need for consideration of the petition. The examiner's

treatment of the correction of inventorship via 37 CFR 1.48 in the office action dated 01-19-2002 was improper and has been rescinded.

7. Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 5,842,685 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

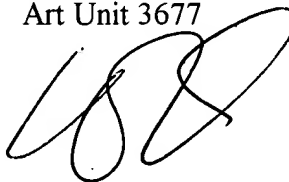
Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller
Primary Examiner
Art Unit 3677

A handwritten signature in black ink, appearing to be 'WLM', written over the printed name and title.

WLM